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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,518	04/12/2004	Syed Rafat Iqbal	1139-022	3343

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DOBRUSIN & THENNISCH PC
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EXAMINER

GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,518	Applicant(s) IQBAL ET AL.	
	Examiner Erika Garrett	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 and 47-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 32-46 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: species I figures 1-2, species II figures 3-4, species III figures 5-6, and species IV figures 7-8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Chris Voci on 3/16/05 a provisional election was made without traverse to prosecute the invention of species IV figures 7-8, claims 32-51. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-32 and 47-51 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Note: claims 47-51 have been withdrawn because the "missing region and ambient air" are drawn to a non-elected species; applicant attention is drawn to page 15-17 of the specification.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 32-35, 37-39, and 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Haupt (6,786,541). Haupt discloses the use of a ventilated seat (10) comprising an insert comprising a seat portion (14) and comprising a flow control layer comprising a port (18); spacer (40); and a fluid barrier (18c, 18d); at least one conduit (20) with at least one flow hole located to the seat portion of the insert. In regards to claim 33, wherein at least one conduit is located within a sealed edge of the insert. In regards to claim 34, wherein at least one conduit is attached to the insert. In regards to claim 35, wherein at least one conduit is located underneath the flow control layer relative to the occupant. In regards to claim 37, wherein the flow control layer comprises at least one flow hole located in the seat portion, figure 2. In regards to claim 38, wherein the port is located in an extension of the insert. In regards to claim 39, further comprising a fan in fluid communication with the spacer by way of the port of the flow control layer, wherein the fan (16) is also in fluid communication with the conduit. In regards to claim 42, further comprising at least a seat cover (28) or one attachment component (24). In regards to claim 43, wherein the insert is attached to a seat cushion. In regards to claim 44, wherein the insert is attached to the seat cover.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haupt.

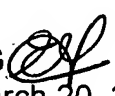
Haupt shows the use of all the claimed invention but fails to show the use of the conduit located above the flow control layer. It would have been an obvious matter of design choice to have the conduit located above the flow control layer, since applicant has not disclosed that having the conduit located above the flow control layer solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the conduit located below the flow control layer.

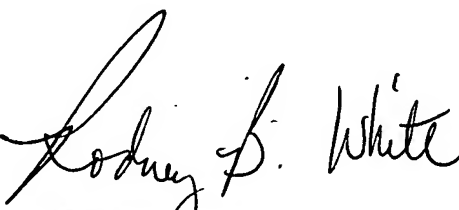
Claim 40-41 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haupt as applied to claims 32 and 40-41 above, and further in view of Wallman (6,048,024) and Feher (5,117,638). Haupt shows the use of all the claimed invention but fails to show the use of two fans and TED. Wallman teaches the use of two fans (9,10). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the ventilated seat with two fans as taught by Wallman, in order to ventilate the air in the seat back and seat bottom. Feher teaches the use of a TED (16). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the ventilated seat with TED as taught by Feher, in order to cool or heat the air passing through the conduits and it will ambient the environment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758 or 571-272-6859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG: 
March 20, 2005


RODNEY B. WHITE
PRIMARY EXAMINEE